

## PEOPLE SMUGGLING: NO CRIME TO BRING THE BOATS

Successive Australian governments have used people smuggling to attempt to criminalise asylum seekers themselves. People associate people smuggling with illegal activity, when it is not illegal to claim asylum at all.

Yet, the penalties for people smuggling offences – up to 20 years jail for boats carrying more than five passengers – are now at the level of such crimes as terrorism, rape and murder! For assisting asylum seekers!

Kevin Rudd put people smuggling at the centre of his anti-refugee rhetoric in April 2009, when he declared that people smugglers were the “absolute scum of the earth”.

Yet, one of the refugees assisted by Ali Jenabi (whose story is told in Robin de Crespigny's book *The People Smuggler*) recently said, “I think he is the best smuggler. He had a good heart. He was not hard, not a greedy person”.

In 2010, the Labor government introduced legislation to create a new offence of providing advice and material support to assist an asylum seeker to get to Australia even if that assistance is entirely for humanitarian reasons. The new offence is clearly aimed at family members, refugee communities and supporters and makes them potentially subject to ASIO surveillance.

There are mandatory sentences of a minimum five years jail (of which three years must be served before any chance of parole) for people smuggling offences. While the government has stopped imposing these against the poor Indonesian fisher folk who crew the asylum boats, they are still imposed on anyone helping organise boats to Australia. This requirement has been attacked by judges for failing to account for the circumstances of those charged. In March 2014 a Victorian judge pointed out the ridiculousness of sending Lamis Hameed Sami Alli Baighi to jail, a refugee himself who helped organise his family members to get here.

There is no evidence that international criminal networks are organising asylum boats to Australia. Most often travel arrangements are made by local or refugee communities, motivated by a mix of profit and altruism. Indeed, several UNHCR-registered refugees have served sentences in Australian jails for people smuggling offences.



One such UNHCR Iraqi-Iranian refugee, Hadi Ahmadi, had twice attempted to get to Australia himself. In 2010 he was convicted for assisting 911 asylum seekers to come to Australia – yet 886 of them were found to be refugees.

Ten of 16 people convicted for people smuggling between 2001 and 2006 were indeed refugees themselves.

Governments have tried to blame a “people smugglers’ business model” – as if it was people smuggling that was driving asylum seekers to seek protection in Australia, talking of “a sophisticated million-dollar product” marketed by smugglers. But the fact is unauthorised travel to Australia is driven by the needs of people fleeing persecution in Afghanistan, Pakistan, and Sri Lanka. Individuals such as Hadi Ahmadi and Ali Al Jenabi provide a humanitarian service to asylum seekers desperately needing protection but who are denied the possibility of official entry to Australia.

Many asylum seekers remain stranded en route to Australia in poor countries that have not signed the Refugee Convention and do not accept refugees, like Malaysia and Indonesia.

The simple fact is that without unauthorised travel agents, asylum seekers would not get to Australia.